



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2018-0008; FRL-9982-61-Region 5]

Air Plan Approval; Wisconsin; Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a January 4, 2018, request by the Wisconsin Department of Natural Resources (Wisconsin) to revise its state implementation plan (SIP) for fine particulate matter (PM_{2.5}). Wisconsin updated its ambient air quality standards for PM_{2.5} to be consistent with EPA's 2012 revision to the PM_{2.5} national ambient air quality standards (NAAQS). Wisconsin also revised its incorporation by reference rule to update references to the EPA monitoring methods.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0008. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain

other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886-6524 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, rau.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. Public Comment
- III. What Action is EPA Taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. Background

On January 15, 2013, EPA revised the primary (protective of human health) annual $\text{PM}_{2.5}$ NAAQS to a level of 12.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). 40 CFR 50.18. EPA also retained the annual $\text{PM}_{2.5}$ secondary (protective of public welfare) NAAQS set at a level of 15.0 $\mu\text{g}/\text{m}^3$, along with the 24-hour primary and secondary NAAQS for $\text{PM}_{2.5}$ at a level of 35 $\mu\text{g}/\text{m}^3$. 40 CFR 50.13.

Wisconsin revised its ambient air quality rules in chapter NR 404 such that its $\text{PM}_{2.5}$ standards are consistent with EPA's revision. Wisconsin modified NR 404.04(9) by splitting the $\text{PM}_{2.5}$ standards into separate sections for the primary and secondary standards. Wisconsin added NR 404.04(9)(am) for the primary $\text{PM}_{2.5}$ standard and NR 404.04(9)(bm) for the secondary $\text{PM}_{2.5}$ standard. In NR 404.04(9)(am), the primary annual $\text{PM}_{2.5}$ standard was revised from 15.0 to 12.0 $\mu\text{g}/\text{m}^3$ with the 24-hour primary $\text{PM}_{2.5}$ standard remaining at 35 $\mu\text{g}/\text{m}^3$. Wisconsin retained the current secondary standard, 15.0 $\mu\text{g}/\text{m}^3$ annual and 35 $\mu\text{g}/\text{m}^3$ 24-hour, in the new NR 404.04(9)(bm).

Wisconsin also included monitoring method requirements in both NR 404.04(9)(am) and (bm). The ambient $\text{PM}_{2.5}$ is to be measured by the methods of 40 CFR part 50, appendices L and N, for both standards. 40 CFR part 50, appendix L, is the Reference Method for the Determination of Fine Particulate

Matter as PM_{2.5} in the Atmosphere, while 40 CFR part 50, appendix N, is the Interpretation of the NAAQS for PM_{2.5}.

Wisconsin also revised its incorporation by reference rules in chapter NR 484. Wisconsin altered NR 484.04(6g) and NR 484.04(6r). The State amended NR 484.04(6g) by incorporating by reference 40 CFR part 50, appendix L, Reference Method for the Determination of Particulate Matter as PM_{2.5} in the Atmosphere, into NR 404.04(9). The State amended NR 484.04(6r) by incorporating by reference 40 CFR part 50, appendix N, Interpretation of the NAAQS for PM_{2.5}, into NR 404.04(9).

II. Public Comment

A comment period was provided in the May 25, 2018, proposed rule (83 FR 24257). The comment period closed on June 25, 2018. One anonymous comment was received that is irrelevant to the scope of this rulemaking and therefore, need not be addressed.

III. What Action is EPA Taking?

EPA is approving revisions to NR 404.04(9), NR 484.04(6g), and NR 484.04(6r), as submitted on January 4, 2018. The revisions to the ambient air quality standards and the incorporation by reference rules make Wisconsin's standards consistent with 2012 PM_{2.5} NAAQS.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with

requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Wisconsin Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through www.regulations.gov, and at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those

requirements would be inconsistent with the Clean Air Act;
and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register.

A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b) (1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Clean Air Act section 307(b) (2) .)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter, Reporting and recordkeeping requirements.

Dated: August 8, 2018.

Cathy Stepp,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart YY - Wisconsin

2. Section 52.2570 is amended by revising paragraphs (c)(121) introductory text and (c)(121)(i)(B), adding paragraph (c)(121)(i)(C), revising paragraph (c)(121)(ii)(B), and adding paragraph (c)(121)(ii)(C) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(121) On September 11, 2009, the Wisconsin Department of Natural Resources (WDNR) submitted a State Implementation Plan (SIP) revision request. The State's ambient air quality standards were revised by adding fine particulate matter, PM_{2.5}, standards and revising the coarse particulate matter, PM₁₀, standards. Wisconsin added annual and 24-hour PM_{2.5} standards. It also revoked the annual PM₁₀ ambient air quality standard while retaining the 24-hour PM₁₀ standard. On January 4, 2018, the WDNR submitted a SIP revision request updating its ambient air quality standards for fine particulate matter to be consistent with EPA's 2012 revisions to the fine particulate matter

national ambient air quality standards. Wisconsin also revised its incorporation by reference rule to update references to the EPA monitoring methods.

(i) * * *

(B) NR 404.04 Ambient Air Quality Standards. NR 404.04 (8) "PM₁₀: PRIMARY AND SECONDARY STANDARDS." as published in the Wisconsin Administrative Register, September 2009, No. 645, effective October 1, 2009.

(C) NR 404.04 Ambient Air Quality Standards. NR 404.04(9) "PM_{2.5}." as published in the Wisconsin Administrative Register, December 2017, No. 744, effective January 1, 2018.

(ii) * * *

(B) NR 484.04 Code of federal regulations appendices. NR 484.04 (6) in Table 2, as published in the Wisconsin Administrative Register, September 2009, No. 645, effective October 1, 2009.

(C) NR 484.04 Code of federal regulations appendices. NR 484.04(6g) and NR 484.04(6r) in Table 2, as published in the Wisconsin Administrative Register, December 2017, No. 744, effective January 1, 2018.

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